

Juan C. Calderón, #J24748

Name and Prisoner/Booking Number

CSP-Sacramento-A3-207

Place of Confinement

P.O. Box 290066

Mailing Address

Represa, CA 95671

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**FILED****Jan 20, 2022**CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Juan C. Calderon  
(Full Name of Plaintiff)

Plaintiff,

(1) C. VUE  
(Full Name of Defendant)

(2) R. Freitas

(3)

(4)

Defendant(s).

Check if there are additional Defendants and attach page I-A listing them.

CASE NO. 2:22-cv-124-CKD (PC)

(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

 Original Complaint First Amended Complaint Second Amended Complaint**Jury Trial Demanded**

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

 28 U.S.C. § 1333(a); 42 U.S.C. § 1983 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971). Other: \_\_\_\_\_

2. Institution/city where violation occurred: Mule Creek State Prison, Ione California

**B. DEFENDANTS**

1. Name of first Defendant: C. Nue. The first Defendant is employed as: Correctional officer at Mule creek State Prison.  
(Position and Title) (Institution)
2. Name of second Defendant: R. Freitas. The second Defendant is employed as: Correctional officer at Mule creek State Prison.  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_, The third Defendant is employed as: \_\_\_\_\_  
at \_\_\_\_\_  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_, The fourth Defendant is employed as: \_\_\_\_\_  
at \_\_\_\_\_  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

**C. PREVIOUS LAWSUITS**

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

## D. CAUSE OF ACTION

### CLAIM I

1. State the constitutional or other federal civil right that was violated: Amendment 8: Persons arrested cannot be punished in cruel or unusual ways.

2. **Claim I:** Identify the issue involved. Check **only one**. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input checked="" type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

On March 25, 2018, Correctional officer C. Yue intentionally went in my cell B6-216 at approximately 2:20 am and he intentionally committed assault, battery, and rape against me when I was asleep at night. Specifically, when officer C. Yue was doing count during first watch, he went in my cell and raped me. Then he started hitting me with his fists on my face and upper body. He also stabbed me with a pen many times on my neck and body causing me a lot of pain, and somehow I jumped out of panic, and I climbed on the top bunk. After officer C. Yue got out of my cell, I called him back. I asked him what's his name, and he showed me his name is C. Yue. I made a CDCR 602 Appeal report, and the investigator demonstrated that Correctional officer R. Freitas was involved working in the control booth, and he opened my cell door for officer C. Yue to attack me. Therefore, I am suing officers C. Yue and R. Freitas in both their "individual and official capacities" for money damages, for injunctive relief, because the officers violated my rights by using excessive force.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

I suffered physical injuries for being stabbed with a pen on my neck, and I suffered psychological distress.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- b. Did you submit a request for administrative relief on Claim I?  Yes  No
- c. Did you appeal your request for relief on Claim I to the highest level?  Yes  No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## CLAIM II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Claim II:** Identify the issue involved. Check **only one**. State additional issues in separate claims.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

## 5. Administrative Remedies.

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Claim II?  Yes  No

c. Did you appeal your request for relief on Claim II to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

### **CLAIM III**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

## 5. Administrative Remedies.

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Claim III?  Yes  No

c. Did you appeal your request for relief on Claim III to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

I respectfully request to be compensated for money damages in the amount of \$3,000,000 dollars.  
I also request injunctive relief, to have correctional officer C. VUE removed from his position and from working in the Enhanced outpatient program, because he is a threat to the EOP inmates. Thank you for your help.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12-30-2021  
DATE

J.P. Calderon

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages; but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

STATE OF CALIFORNIA

## DEPARTMENT OF CORRECTIONS AND REHABILITATION

OFFICE OF APPEALS

P.O. BOX 942883

SACRAMENTO, CA 94283-0001

**THIRD LEVEL APPEAL DECISION**

Date: JAN 07 2019

In re: Juan Calderon, J24748  
 California State Prison, Sacramento  
 P.O. Box 29  
 Represa, CA 95671

TLR Case No.: 1808272 Local Log No.: MCSP-18-01390

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner S. K. Hemenway. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that on March 25, 2018, at about 0220 hours while in his cell, Correctional Officer (CO) C. Vue attacked and stabbed him many times with a pen while he was trying to sleep. He states that he heard a noise like his cell door being opened and felt someone come into his cell and rape him. This person then started hitting the appellant with his fists on his face, nose and upper body; then, sticking him all over his body many times with a pen. He also states that out of sheer panic, he managed to climb onto the upper bunk screaming at "him" to get out. He states that he then stood up and looked outside his cell and saw CO Vue acting suspicious as he was walking away from the appellant's cell. The appellant states that he called to CO Vue and said to him, "I felt someone attacked me;" and he said, "You were sleeping underneath" and left. He is requesting that this be investigated and CO Vue be removed from working in Facility "B" Enhanced Outpatient Program due to the threat to him.

**II SECOND LEVEL'S DECISION:** The reviewer found that Correctional Lieutenant M. Allen interviewed the appellant who stated, "I'm not really sure if it was Officer Vue who raped and attacked me, it could have been Officer T. Chao."

The reviewer found a basis to partially grant the appeal. The allegation of staff misconduct presented in the written complaint was reviewed and completed. Based upon this review, the appellant's appeal was processed as an appeal inquiry. The inquiry included a review of the evidence, an evaluation of any interview conducted and a review of pertinent documents, current laws, policies and procedures. The appellant was informed that all staff personnel matters are confidential in nature. The appellant will only be notified whether the actions of staff were or were not in compliance with policy. The inquiry was completed; and, it was found that staff did not violate policy with respect to the issue appealed. The appeal was partially granted in that an inquiry was completed and has been reviewed.

**III THIRD LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** Upon review of the documentation submitted, the Third Level of Review (TLR) Examiner determined that the appellant's allegation was appropriately reviewed and evaluated by administrative staff. All staff personnel matters are confidential in nature and will not be disclosed to other staff, the general public, the inmate population, or the appellant. If the conduct of staff was determined not to be in compliance with policy, the institution will take the appropriate course of action. In this case, the Second Level of Review (SLR) informed the appellant that an inquiry was completed and disclosed the determination of the inquiry. The appellant's request for staff training, to place documentation in a staff member's personnel file; to reprimand staff; to remove staff from a position; and/or requests for monetary compensation is beyond the scope of the appeals process. The TLR Examiner reviewed the confidential inquiry and concurs with the SLR determination. The institution's response complies with departmental policy and the appellant's staff complaint allegation was properly addressed.

The appellant has added new issues and requests to the appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

**B. BASIS FOR THE DECISION:**

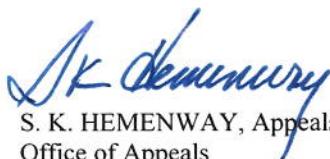
California Penal Code Section: 832.5, 832.7, 832.8

California Code of Regulations, Title 15, Section: 3000, 3000.5, 3001, 3004, 3084, 3084.1, 3084.3, 3084.5, 3084.7, 3084.9, 3380, 3391

CDCR Operations Manual, Section: 31140.14, 54100.25

**C. ORDER:** No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



S. K. HEMENWAY, Appeals Examiner  
Office of Appeals



M. VOONG, Chief  
Office of Appeals

cc: Warden, SAC  
Appeals Coordinator, SAC  
Appeals Coordinator, MCSP

STATE OF CALIFORNIA  
INMATE/PAROLEE APPEAL  
CDCR 602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION



USE ONLY	Institution/Parole Region:	Log #:	Category:
	MCSP-B	18-01390	7b
FOR STAFF USE ONLY <i>per Warden 4/18 da</i>			

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): <b>CALDERÓN, JUAN</b>	CDC Number: <b>J-24748 B6-2161</b>	Unit/Cell Number:	Assignment: <b>DEIII-C.E.D.</b>
State briefly the subject of your appeal (Example: damaged TV, job removal, etc.): <b>Emergency-Staff Assault/Rape of inmate</b>			
<p>A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): <b>ON 3-25-2018 At approximately 2:20AM, I was attacked and stabbed many times with a pen by officers C. Vuel, while I was in my cell trying to sleep.</b></p> <p>B. Action requested (If you need more space, use Section B of the CDCR 602-A): <b>I respectfully request to investigate and have C/o C. Vuel removed from working in B Facility EOP building, because he is a threat to me.</b></p> <p>Supporting Documents: Refer to CCR 3084.3.</p> <p><input checked="" type="checkbox"/> Yes, I have attached supporting documents.</p> <p>List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono): <b>CDCR-22 Form</b></p>			
<p><input checked="" type="checkbox"/> No, I have not attached any supporting documents. Reason: <b>Because I don't have any supporting documents at this time, but I will provide the necessary documents with a blue shirt that has some semen as evidence.</b></p> <p>Inmate/Parolee Signature: <b>J. Calderon</b> Date Submitted: <b>3-25-18</b></p> <p><input type="checkbox"/> By placing my initials in this box, I waive my right to receive an interview.</p>			

C. First Level - Staff Use Only		Staff - Check One: Is CDCR 602-A Attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
This appeal has been:		
<input checked="" type="checkbox"/> Bypassed at the First Level of Review. Go to Section E. <input type="checkbox"/> Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ <input type="checkbox"/> Cancelled (See attached letter) Date: _____ <input type="checkbox"/> Accepted at the First Level of Review.		
Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____ First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below. Date of Interview: <b>BYPASS</b> Interview Location: <b>BYPASS</b> Your appeal issue is: <input type="checkbox"/> Granted <input type="checkbox"/> Granted in Part <input type="checkbox"/> Denied <input type="checkbox"/> Other: _____ See attached letter. If dissatisfied with First Level response, complete Section D. Interviewer: _____ Title: _____ Signature: _____ Date completed: _____ Reviewer: _____ (Print Name) Title: _____ Signature: _____ Date received by AC: _____		
AC Use Only Date mailed/delivered to appellant _____ / _____ / _____		

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

**BYPASS**

**BYPASS**

Inmate/Parolee Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

**E. Second Level - Staff Use Only**

Staff - Check One: Is CDCR 602-A Attached?  Yes  No

This appeal has been:

By-passed at Second Level of Review. Go to Section G.  
 Rejected (See attached letter for instruction) Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 Cancelled (See attached letter)  
 Accepted at the Second Level of Review

Assigned to: AW/FAC/BTC Title: AW Date Assigned: 4-11-18 Date Due: 5-8-18

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: 4/20/18

Interview Location: ASU

Your appeal issue is:  Granted  Granted in Part  Denied  Other: \_\_\_\_\_

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: M. Allen Title: LT Signature: m allen Date completed: 4/28/18

Reviewer: D. M. Jackson Title: Warden Signature: DMJ

Date received by AC: 5-9-18

AC Use Only  
Date mailed/delivered to appellant 5, 9, 18

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

On 5-8-18, I received the response of the Appeal investigation made by Lt. M. Allen for the PREA case of rape and Battery with weapon, that C/o C. VUE Committed against me on the night of March 25, 2018 While I slept in cell BG-216 During First Watch at Mule Creek State Prison.

Inmate/Parolee Signature: J. C. Collieron

Date Submitted: 6-7-18

**G. Third Level - Staff Use Only**

This appeal has been:

Rejected (See attached letter for instruction) Date: JUL 13 2018 Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 Cancelled (See attached letter) Date: \_\_\_\_\_  
 Accepted at the Third Level of Review. Your appeal issue is  Granted  Granted in Part  Denied  Other: \_\_\_\_\_

See attached Third Level response.

Third Level Use Only  
Date mailed/delivered to appellant JAN 10, 2019

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Staff Name: \_\_\_\_\_ Title: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF CALIFORNIA  
INMATE/PAROLEE APPEAL FORM ATTACHMENT  
CDCR 602-A (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 1

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
1808272	mcsp-b	18-01390	7b
FOR STAFF USE ONLY			

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First): <u>CALDERÓN, JUAN</u>	CDC Number: <u>5-24748 B6-2161</u>	Unit/Cell Number: <u></u>	Assignment: <u>ABETII-C.E.D.</u>
<p>A. Continuation of CDCR 602, Section A only (Explain your issue):</p> <p>When I was in my cell B6-2161, I heard a noise like my cell door opened, and I felt someone came into my cell and started raping me while I was sleeping. Then he started to attack me hitting me with his closed fists on my face, nose, and upper body. Then he was sticking me with open mouth times all over my body. So I felt very panicked and scared to the point that I reacted immediately by my natural instinct, and I don't know how I did, but I climbed on top of the upper bunk because I was very scared, and I was screaming at him to get out. After that, I stood up to look outside, and I saw officer C. Vue acting suspicious as he was walking away from my cell. So I called him and told him, "I felt someone attacked me", and he said, "You were sleeping underneath", and left.</p> <p>Inmate/Parolee Signature: <u>J.C. Calderón</u></p> <p>Date Submitted: <u>3-25-18</u></p>			
<p>REC BY OOA JUN 18 2018</p> <p>REC BY OOA AUG 30 2018</p> <p>REC BY OOA AUG 30 2018</p>			

<p>B. Continuation of CDCR 602, Section B only (Action requested):</p> <p>I also request to please investigate the conduct of officer Mr. Wong who was working during third watch in B-facility building 6, because I believe he opened my cell door at night and let C/o C. Vue enter to attack me in the cell, and he might be involved in a conspiracy to plot the attacks against me, and they are both violating my rights, and violated the Rules and Regulations of Adult operations and programs of Title 15, Article 1, Section 3000. So they both officers should be removed from working in Facility B, TOP program.</p>	
Inmate/Parolee Signature: <u>J.C. Calderón</u>	Date Submitted: <u>3-25-18</u>

D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response): \_\_\_\_\_

BYPASS

BYPASS

BYPASS

RECORDED

Inmate/Parolee Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

However, Officer C. Vue was not interviewed by Lt. Allen, and it was in fact officer C. Vu who committed the attack on me, not C/o T. Chao. But the inquiry report shows that it was the Contra officer R. Freitas who opened my cell door at night and allowed C/o Vu to enter and attack me in the cell while I slept. So they are both responsible for plotting the attacks against me. I sent an inmate request to Lt. F. Jacobo asking her about C/o C. Vue's real identity. She confirmed that C/o Vue worked at MCSP. So he violated Title 15, Rule # 3268(a)(1) Non-Conventional Force: Force that utilizes techniques or instruments that are not specifically authorized in policy, procedures, or training. Depending on the circumstances, non-conventional force can be necessary and reasonable, it can also be unnecessary or excessive.

Inmate/Parolee Signature: J.C. Calderon Date Submitted: 6-7-18

State of California

# Memorandum

Date : April 28, 2018

To : Calderon, J24748  
Mule Creek State Prison

Subject: **SECOND LEVEL APPEAL RESPONSE LOG NO.: MCSP-B-18-01390**

## APPEAL ISSUE:

The appellant alleges Officer C. Vue utilized Unnecessary Force on him while he slept. All issues unrelated to the allegation of staff misconduct must be appealed separately and will not be addressed in this response. You do not exhaust administrative remedies on any unrelated issue not covered in this response or concerning any staff member not identified by you in this complaint. If you are unable to name all involved staff you may request assistance in establishing their identity.

**DETERMINATION OF ISSUE:** A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal is: **Being processed as an Appeal Inquiry**

The appellant was interviewed on April 20, 2018. During the interview, the appellant reiterated what was stated in his appeal; Officer C. Vue physically assaulted him on March 25, 2018 during First Watch. I asked appellant if there was anything additionally to add to his appeal regarding Officer Vue's alleged misconduct. Appellant stated "I'm not really sure if it was Officer Vue who raped and attacked me, it could have been Officer T. Chao." Appellant requested the following actions: An Investigation conducted into this incident and both Officer Vue and Wong removed from working Facility B.

Your appeal is Partially Granted in that:

➤ The Appeal inquiry is complete and all issues were adequately addressed.

The Appellant did not request witnesses:

The following witnesses were interviewed due to being identified as part of this incident or having knowledge of this incident: Officers T. Chao and R. Freitas.

The following information was reviewed as a result of your allegations of staff misconduct Appeal # MCSP-B-18-01390, CDR 7219 dated April 03, 2018, UOF video dated April 03, 2018 and interviews of the witness.

Staff: did  did not  violate CDR policy with respect to one or more of the issues appealed.

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Calderon, J24748

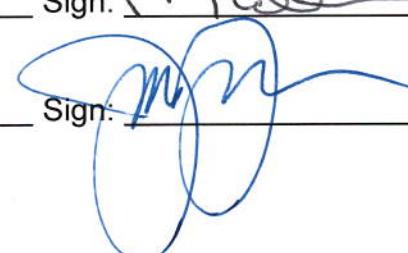
Appeal Log No: MCSP-B-18-01390

ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.

- As such, the details of any inquiry will not be shared with staff, members of the public, or offender appellants.
- Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process. A variety of personnel actions may be initiated by the Department based upon the content of your complaint and the outcome of any investigation or inquiry conducted as a result of your complaint.
- Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process.

If you wish to appeal the decision and/or exhaust administrative remedies, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Secretary's/Third Level of Review. Once a decision has been rendered at the Third Level, administrative remedies will be considered exhausted.

Print: M. Allen Sign:  Date: April 28, 2018  
Interviewer

Print: Calderon Sign:  Date: 5/8/18  
Reviewing Authority

STATE OF CALIFORNIA  
**RIGHTS AND RESPONSIBILITY STATEMENT**  
 CDCR 1858 (Rev. 10/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## RIGHTS AND RESPONSIBILITY STATEMENT

*The California Department of Corrections and Rehabilitation has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.*

**Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:**

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

Juan C. Calderon

COMPLAINANT'S PRINTED NAME

Juan C. Calderon

INMATE/PAROLEE PRINTED NAME

Juan C. Calderon

RECEIVING STAFF'S PRINTED NAME

F. JACOBO

COMPLAINANT'S SIGNATURE

J.C. Calderon

INMATE/PAROLEE'S SIGNATURE

J.C. Calderon

RECEIVING STAFF'S SIGNATURE

J. Jacobo

DATE SIGNED

4-16-18

CDC NUMBER

J-94748

4-16-18

DATE SIGNED

4/16/18

DISTRIBUTION:

ORIGINAL -

Public - Institution Head/Parole Administrator

Inmate/Parolee - Attach to CDC form 602

Employee - Institution Head/Parole Administrator

COPY - Complainant

STATE OF CALIFORNIA  
INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE  
CDCR 22 (10/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## SECTION A: INMATE/PAROLEE REQUEST

NAME (Print): (LAST NAME)	(FIRST NAME)	CDC NUMBER:	SIGNATURE:
CALDERON, JUAN		F24748	<i>J. Calderon</i>
HOUSING/BED NUMBER:	ASSIGNMENT:	HOURS FROM _____ TO _____	TOPIC (E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.): Appeal Inquiry
C 12-207	A.S.U. Top		

CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

I Respectfully Request to have an interview with Lieutenant H. Jacobo because I want to know if Correctional Officer T. Chao is the same officer who used the name C. Vue, or is C/o C. Vue the real name of another officer because I made a First Appeal Log #MCSP-16-001390, on 3-25-16 to officer C. Vue, and I'm still confused about his real name. Please respond. Thank you!

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) \*\*NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED\*\*

SENT THROUGH MAIL: ADDRESSED TO: Lieutenant H. Jacobo DATE MAILED: 5-24-18  
 DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

RECEIVED BY: PRINT STAFF NAME:	DATE:	SIGNATURE:	FORWARDED TO ANOTHER STAFF: (CIRCLE ONE) <input checked="" type="radio"/> YES <input type="radio"/> NO

IF FORWARDED - TO WHOM:	DATE DELIVERED/MAILED:	METHOD OF DELIVERY: (CIRCLE ONE): <input type="radio"/> IN PERSON <input checked="" type="radio"/> BY US MAIL
<i>Lt. F. Jacobo</i>	<i>5-24-18</i>	

## SECTION B: STAFF RESPONSE

RESPONDING STAFF NAME:	DATE:	SIGNATURE:	DATE RETURNED:
<i>JACOBO</i>	<i>6/4/18</i>	<i>J. Jacobo</i>	<i>6/4/18</i>

BOTH of the officers mentioned above (Chao & Vue) work here at MULE CREEK STATE PRISON Office Chao was not present during the 1<sup>st</sup> watch shift.

## SECTION C: REQUEST FOR SUPERVISOR REVIEW

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

SIGNATURE:	DATE SUBMITTED:

## SECTION D: SUPERVISOR'S REVIEW

RECEIVED BY SUPERVISOR (NAME):	DATE:	SIGNATURE:	DATE RETURNED: